

REMARKS:

I. Introduction

In the Office Action mailed on June 6, 2005, the Examiner rejected claims 1 to 3 and 10 to 26. The present amendment cancels claims 25 and 26, amends claims 1 and 15, and adds no new claims. Accordingly, claims 1 to 3 and 10 to 24 are now pending in this application.

II Claim Objections

The Examiner objected to claims 25 and 26. The subject matter of claims 25 and 26 has been inserted into independent claims 1 and 15 respectively and claims 25 and 26 have been cancelled. Reconsideration and withdrawal of the objection is requested.

III. Claim Rejections Based on 35 U.S.C. § 103

(a) The Examiner rejected claims 1 to 3, 10, 11, 15 to 19, and 21 to 26 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340).

It is noted that the subject matter of claims 25 and 26 has been inserted into independent claims 1 and 15. With regard to claims 25 and 26, the Examiner stated that "Strubelt in view of Goemans discloses two of the sidewalls having a longer width than the other two sidewalls and an entrance opening being laterally centered on one of the sidewalls" and "Wernette teaches an entrance opening 58 being on one of the sidewalls having the longer width." The Examiner concluded that "it would have been obvious to modify Strubelt in view of Goemans to implement an entrance opening on one of the sidewalls having the longer width as taught by Wernette, and to further center the opening along the wall, in order to allow all manner of cats within the litter box." The Examiner further concluded that lacking any criticality or evidence to the contrary, it would have been obvious to one of ordinary skill in the art at the time the invention was made to so arrange the opening of the container, since it has been held that rearranging parts of an invention involves only routine skill in the art. More over, the Examiner stated that "there is no apparent benefit from so arranging the container, short of Applicant's argument that a cat would prefer using the device, which brings up the question, and burden of proof of this assertion."

Applicant respectfully submits that Strubelt, Goemans, nor Wernette disclose motivation

for combining the references in the claimed manner. It is not understood what is meant "to allow all manner of cats within the litter box." Clearly, any cat that can fit through the opening can enter the container regardless of the location around the periphery of the container. Further, there is a clear benefit from arranging the container in the claimed manner other than that a cats prefer to use the device. The claimed device reduces the unwanted escape of litter etc. out of the container (over the sidewalls and through the entrance opening). It was the inventive insight of the present inventor to determine that most cats face toward an entrance opening to urinate etc. when within a container having walls of a height that they cannot see over. Thus having a container having an appropriately sized wall height and an appropriately sized and located entrance opening can avoid unwanted escape of litter etc. over the sidewalls and through the entrance opening. It was also the inventive insight of the present inventor to determine that most cats prefer to urinate toward a corner, that is, facing away from a corner. Thus, further unwanted escape of matter through the entrance opening is avoided if the container is rectangular shaped with corners. Even if a particular cat does not naturally face the entrance opening as most cats tend to do, they are still likely to urinate toward a corner and thus not directly toward the entrance opening. It was further the inventive insight of the present inventor to determine that when the entrance opening is centrally located on the wide sides of the rectangular container, the escape of unwanted litter etc. is substantially prevented. Even when a cat urinates toward one of the corners adjacent the entrance opening some litter may escape, but the unwanted escape of litter etc. through the entrance opening is further reduced when the entrance opening is located as claimed because it has the maximum distance from a corner for any particular size of rectangular container. See declaration of Inventor submitted herewith.

Independent claims 1 and 15, and claims dependent therefrom, are allowable because they each include the limitations of "a rectangular container having a base wall with sidewalls extending vertically upward from edges of the base wall to form a rectangular-shaped hollow interior space" and "wherein two of the sidewalls have a longer width than the other two of the sidewalls and the entrance opening is laterally centered on one of the sidewalls having the longer width." No prior art of record reasonably discloses or suggests the present invention as defined by independent claims 1 and 15. Reconsideration and withdrawal of the rejection is requested.

(b) Alternatively, the Examiner rejected claims 1 to 3, 10, 11, 15 to 19, and 21 to 26 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340) in view of Goemans (European Patent Application 0 372 659 A1).

Independent claims 1 and 15, and claims dependent therefrom, are allowable because they each include the limitations of "a rectangular container having a base wall with sidewalls extending vertically upward from edges of the base wall to form a rectangular-shaped hollow interior space" and "wherein two of the sidewalls have a longer width than the other two of the sidewalls and the entrance opening is laterally centered on one of the sidewalls having the longer width." No prior art of record reasonably discloses or suggests the present invention as defined by independent claims 1 and 15. See discussion above with regard to the Strubelt rejection. Reconsideration and withdrawal of the rejection is requested.

(c) The Examiner rejected claims 12 and 20 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340) in view of Denesuk et al. (US 6,196,156).

Claims 12 and 20 are allowable as depending from allowable independent claims 1 and 15 as discussed above and independently allowable for novel and nonobvious matter therein. Reconsideration and withdrawal of the rejection is requested.

(d) The Examiner rejected claims 13 and 14 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340) in view of Reid (US Des. 380,880).

Claims 13 and 14 are allowable as depending from allowable independent claim 1 as discussed above and independently allowable for novel and nonobvious matter therein. Reconsideration and withdrawal of the rejection is requested.

(e) The Examiner rejected claims 25 and 26 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340) in view of Goemans (European Patent Application 0 372 659 A1) and further in view of Wernette (US 4,624,380).

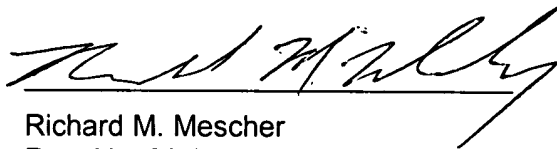
Claims 25 and 26 have been cancelled and the subject matter has been inserted into independent claims 1 and 15 respectively as discussed above. Reconsideration and withdrawal of the rejection is requested.

IV. CONCLUSION

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that the present amendment does not place the application in a condition for allowance, applicant's undersigned attorney requests that the examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,



Richard M. Mescher
Reg. No. 38,242

PORTER, WRIGHT, MORRIS & ARTHUR LLP
41 South High Street
Columbus, Ohio 43215
(614) 227-2026
Fax: (614) 227-2100

October 5, 2005